

CRAIG ALLEN MORGENSTERN
REG#17551-085
USP TUCSON
P.O. BOX 24550
TUCSON, AZ. 85734

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

AUG 28 2017

SEAN F. McAVOY, CLERK
DEPUTY
SPOKANE, WASHINGTON

IN THE
UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WASHINGTON
SPOKANE DIVISION

CRAIG ALLEN MORGENSTERN,

MOVANT,

VS.

CRIMINAL ACTION NO:

2:14-CR-00161-WFN.

UNITED STATES OF AMERICA,

UNITED STATES ATTORNEY BRYAN

DONAVAN, JOSEPH H. HARRINGTON,

et, al.

RESPONDENT(S).

MOVANT'S MOTION TO RESTRAIN RESPONDENT(S)
& BUREAU OF PRISONS FROM SEIZING VA BENEFIT'S
[UN]TAINTED BY CHARGED CRIME(S)

Comes movant (morgenstern) appearing pro se and
in support of this petition would show as follows:

As a preliminary matter, (morgenstern) requests
that this court be mindful that pro se pleading's are

to be construed liberally. Estelle vs. Gamble (1976) 429 US 97, 106; and Jackson vs. Barnes (9th Cir. 2014) 749 F.3d 755.

JURISDICTION

Jurisdiction is vested in this court pursuant to 18 USC § 2253(g)(h)(1)(2)(i); 18 USC § 3742(a)(1); and Luis vs. United States 578 US ___, 136 S Ct ___, 194 L Ed 2d 256, 2016 US LEXIS 2272 [No.14-419], which confers jurisdiction of district court's to issue writ's, i.e. preliminary injunction, restraining order from the government seizing any Veterans Disability Benefit's is [un]constitutional that are untainted by charged crime(s). Also see People vs. O.J. Simpson in a law suit (civil) by the Goldman family were denied to file abstract on (NFL) retirement, i.e. benefit's from seizing any monies that have nexus between disability, retirement, social security that will cause irreparable injury.

As a preliminary matter, (morgenstern) was denied preliminary hearing under Rule 5(d)(1)(D) and 5.1(e) of the Federal Rules Criminal procedure, and never executed a signed document waiving his right to a preliminary hearing attacking the legal sufficiency of the indictment(s) and the criminal forfeiture under 18 USC § 2253.

Title 18 USC § 2253(g) states: [TH]at the court may restrain or stay any sale or disposition of the property pending the conclusion of any appeal of the criminal case giving rise to the forfeiture.

(1) The movant (morgenstern) never executed a signed document waiving his right to a preliminary hearing. See Johnson vs. Zerbst (1938) 304 US 458-469.

(2) Defense counsel's was inadequate for failing to file motion for a preliminary hearing thereby waiving the movant's right without his permission constituted inadequate representation of counsel. See Coleman vs. Alabama (1970) 399 US 1, 10-11.

(3) United States is barred from seizing any disability income, social security, va benefit's, medical compensation that is untainted by charged crime(s) and only through civil proceeding's and 18:2254(d).

STATEMENT OF THE GROUNDS FOR RELIEF

On 8/09/2017 the U.S. Attorney filed a motion to seize movant's va benefit's, see (dkt#192) pages 1-7, as to Appellant (craig allen morgenstern) currently incarcerated at the federal bureau of prisons.

The bureau of prisons illegally with-held movant(s) fund's through an BP-199 denying his right access to his va benefits that were untainted by charged crime(s) are unconstitutional. His benefit's that he received were awarded prior to being found guilty of alleged crime(s) that are pending appeal in the Ninth Circuit Court of appeals and future appeals will be filed after [i]f his direct appeals are exhausted, will be filing 28 USC § 2255, 28 USC § 1651, 18 USC § 3742(a)(1) if need be.

Currently the movant has a payment plan, a contract by and through the federal bureau of prisons to pay restitution, and the government concedes that it is the movant's obligation to notify of any economical changes is **MOOT and MALFEASANT**. The movant filed a emergency motion to both the Court of Appeals and the U.S. Supreme Court for adequate representation of counsel, and stay the direct appeal pending the outcome.

Under the VA Benefit's program states that a veteran may have a dependent, such as his mother. Due to the government's illegal seizure of his mother's home that movant purchased has caused financial strain on his mother paying a \$1000.00 a month rent. he mailed BP-199 to his sister in order to help support his moth-

ers need's, and his sister to aquire legal assistance. The United States attorney Bryan donovan has caused a prosecutorial overreach in attempting to seize untainted va disability benefit's is moot and malfeasant.

The United States filed 3 superceding count's 1sss through 36sss violating the Blockburger Test was was [un]constitutional and causing a double jeopardy by the multiplicious filing of said indictment(s) as to the movant (morgenstern), [wh]ich is currently pending appeal with respect hereto this Court.

Several years ago the Ninth Circuit U.S. Attorney 's Office caused an prosecutorial overreach when filing multiplicious indictment(s) as to Senator Ted Stephens in which a Ninth Circuit Court of Appeals reversed and vacated due to prosecutorial overreach, also attemptd to seize the late Honorable Ted Stephens (Senator) asset's.

As a result, 4 U.S. Attorney(s) including Assistant U.S. Attorney's were disciplined resulting in one suicide by one of the u.s. attorney's due to prosecutorial overreach resulting in a [un]lawful prosecution.

CONCLUSION

For the above and foregoing reasons, movant respectfully requests that this court file a restraining order to restrain the united states from seizing movant's va benefit's and file contempt order as to the federal bureau of prisons illegally with-holding va benefit's were unconstitutional and further oder that the federal bureau of prisons from with-holding any future va benefit's, and order the united states federal bureau of prisons general counsel to release movant's (morgenstern's) said va benefit's in violation of law. Luis vs. United States (2016) 578 US____, 136 S Ct____,.

Respectfully Submitted

CERTIFICATE OF SERVICE AND MAILING

I, CRAIG ALLEN MORGENSTERN certify under penalty of perjury pursuant to 28 U.S.C. § 1746, that the foregoing attached MOTION TO RESTRAIN UNITED STATES FROM SEIZING VA BEN. was deposited in the institutional legal mail system after being properly addressed to the address(es) listed below, having first-class postage prepaid, affixed to the envelope, on the date below. The original of the attached document was filed with the clerk of court using U.S. Postal Service, at the following address:

CRAIG ALLEN MORGENSTERN
17551-085

Certified Mail Number:

P.O. Box 24550
TUCSON, AZ. 85734

A true and correct copy of the attached was served on:

UNITED STATES District Court
SPOKANE DIVISION

Certified Mail Number:

I certify that the attached was filed with the Court, served on the above named party, and deposited in the institutional legal mail system on this 23rd day of X AUGUST, 2017. The attached is considered filed into the Court on the date above in accordance with Houston v. Lack, 101 L.Ed.2d 245 (1988).

MOVANT RESPONDENT
Case Name: MORGENSTER Vs. U.S.A.
Case Number: 2:14CR161-WFN

MORGENSTERN,
MOVANT,
VS.
U.S.A.,
RESPONDENT.

2:14-CR-161-WFN

RESTRAINING ORDER